

## AGENDA BILL APPROVAL FORM

<b>Agenda Subject:</b> Ordinance No. 6260		<b>Date:</b> August 14, 2009
<b>Department:</b> Finance	<b>Attachments:</b> Ordinance 6260, Exhibit A & Exhibit B	<b>Budget Impact:</b>
<b>Administrative Recommendation:</b>  City Council introduce and adopt Ordinance No. 6260.		
<b>Background Summary:</b>  <p>The City of Auburn entered into an interlocal agreement among the Cities of Auburn, Burien, Des Moines, Federal Way, Renton, SeaTac, and Tukwila on February 25, 2009 to jointly construction and operate a jail facility, SCORE. Ordinance number 6260 provides for two things:</p> <p>1) It amends and restates the original interlocal agreement (Exhibit A) among the Cities where Des Moines has requested to enter into a separate interlocal agreement with SCORE, Auburn, Federal Way and Renton which will provide for Des Moines to pay a host city fee for the use of the facility. This fee will be paid to Auburn, Federal Way and Renton. Des Moines will be a SCORE member city along with the others in the original agreement but will not be an owner city.</p> <p>2) Provides a new interlocal agreement (Exhibit B) between Des Moines, Auburn, Federal Way, Renton and SCORE, where Des Moines will be making a capital contribution payment directly to Auburn, Federal Way and Renton which will be used as a directly credited against amounts owed by these cities.</p> <p>N0907-3</p> <p>O1.7.1</p>		
<b>Reviewed by Council &amp; Committees:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Arts Commission  <input type="checkbox"/> Airport  <input type="checkbox"/> Hearing Examiner  <input type="checkbox"/> Human Services  <input type="checkbox"/> Park Board  <input type="checkbox"/> Planning Comm.         </div> <div style="width: 45%;"> <b>COUNCIL COMMITTEES:</b>  <input checked="" type="checkbox"/> Finance  <input type="checkbox"/> Municipal Serv.  <input type="checkbox"/> Planning &amp; CD  <input type="checkbox"/> Public Works  <input type="checkbox"/> Other _____         </div> </div>		<b>Reviewed by Departments &amp; Divisions:</b> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Building  <input type="checkbox"/> Cemetery  <input checked="" type="checkbox"/> Finance  <input type="checkbox"/> Fire  <input type="checkbox"/> Legal  <input type="checkbox"/> Public Works  <input type="checkbox"/> Information Services         </div> <div style="width: 45%;"> <input type="checkbox"/> M&amp;O  <input type="checkbox"/> Mayor  <input type="checkbox"/> Parks  <input type="checkbox"/> Planning  <input type="checkbox"/> Police  <input type="checkbox"/> Human Resources         </div> </div>
<b>Action:</b> Committee Approval: <input type="checkbox"/> Yes <input type="checkbox"/> No Council Approval: <input type="checkbox"/> Yes <input type="checkbox"/> No      Call for Public Hearing ____/____/____ Referred to _____ Until ____/____/____ Tabled _____ Until ____/____/____		
<b>Councilmember:</b> Backus		<b>Staff:</b> Coleman
<b>Meeting Date:</b> September 8, 2009		<b>Item Number:</b> VIII.A.2

## ORDINANCE NO. 6260

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED INTERLOCAL AGREEMENT RELATING TO THE SOUTH CORRECTIONAL ENTITY FACILITY; AUTHORIZING THE EXECUTION OF AN AGREEMENT AMONG THE CITIES OF RENTON, AUBURN, FEDERAL WAY, AND DES MOINES, WASHINGTON, AND THE SOUTH CORRECTIONAL ENTITY; AND AMENDING ORDINANCE NO. 6224

WHEREAS, the City of Auburn, Washington (the "City") is authorized by chapter 70.48 RCW to contract for, establish and maintain correctional facilities in furtherance of public safety and welfare; and

WHEREAS, pursuant to Ordinance No. 6224 adopted by the City on January 20, 2009, and chapter 39.34 RCW, the Interlocal Cooperation Act, the City entered into a SCORE Interlocal Agreement with Renton, Federal Way, Burien, Des Moines, Tukwila and SeaTac, Washington (the "Member Cities"), dated February 25, 2009 (the "Original Interlocal Agreement"), to form a governmental administrative agency known as the South Correctional Entity ("SCORE"); and

WHEREAS, the purpose of SCORE is to establish and maintain a consolidated correctional facility to be located in Des Moines (the "SCORE Facility") to serve the Member Cities and federal and state agencies and other local governments that may contract with SCORE in the future to provide correctional services essential to the preservation of the public health, safety and welfare; and

WHEREAS, the Member Cities have determined that the SCORE Facility will provide improved correctional facilities within the boundaries of the consolidated service areas at a lower total cost to the participating Member Cities than currently available alternatives or than the participating Member Cities could individually provide; and

WHEREAS, financing for the acquisition, construction, equipping, and improvement of the SCORE Facility will be provided by bonds issued by the South Correctional Entity Facility Public Development Authority (the "Authority"), a public development authority chartered by Renton pursuant to RCW 35.21.730 through 35.21.755; and

WHEREAS, pursuant to Ordinance No. 6224, the City pledged its full faith and credit toward the payment of its allocable proportion (29%) of the debt service on bonds issued by the Authority; and

WHEREAS, the Member Cities now desire to amend the Original Interlocal Agreement pursuant to the terms of an Amended and Restated SCORE Interlocal

Agreement (the "SCORE Formation Interlocal Agreement" or "Interlocal Agreement") to reallocate the proportional share of debt service due from Renton, Auburn, Federal Way, Tukwila, SeaTac and Burien (the "Owner Cities") on bonds issued by the Authority and to designate Des Moines as the "host city"; and

WHEREAS, the SCORE Formation Interlocal Agreement requires that Des Moines enter into an agreement with SCORE and the Owner Cities, as necessary, pursuant to which the City will pay a host city fee for the availability of the SCORE Facility; and

WHEREAS, Des Moines has requested that the City enter into a separate host city agreement with Renton, Auburn, Federal Way, Des Moines and SCORE (the "Host City Agreement") which will provide, in part, that Des Moines pay a host city fee for the availability of the SCORE Facility as provided therein; and

WHEREAS, in consideration for the payments to be made by Des Moines as provided in the Host City Interlocal Agreement, the City now desires to increase its allocable percentage of debt service on bonds issued by the Authority and to amend and restate the Original Interlocal Agreement as provided herein;

THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON ORDAINS AS FOLLOWS:

Section 1. Approval of Amended and Restated SCORE Interlocal Agreement. The City Council hereby approves the Amended and Restated SCORE Interlocal Agreement with Renton, Auburn, Federal Way, Des Moines, Tukwila, Burien, and SeaTac, Washington, substantially in the form as attached hereto as Exhibit A and incorporated herein by this reference (the "SCORE Formation Interlocal Agreement" or "Interlocal Agreement"). The Mayor is hereby authorized and directed to execute the SCORE Formation Interlocal Agreement, substantially in the form attached hereto with only those modifications as shall have been approved by him. The Mayor and other appropriate officers of the City are authorized and directed to take any and all such additional actions as may be necessary or desirable to accomplish the terms therein. The SCORE Formation Interlocal Agreement may be further amended from time to time as provided therein.

Section 2. Approval of Host City Agreement. The City Council hereby approves the Host City Agreement among the Cities of Renton, Federal Way, Auburn, and Des Moines, Washington, and the South Correctional Entity, substantially in the form as attached hereto as Exhibit B and incorporated herein by this reference (the "Host City Agreement"), pursuant to which Des Moines will pay a host city fee for its use of the SCORE Facility. The Mayor is hereby authorized and directed to execute the Host City Interlocal Agreement, substantially in the form attached hereto with only those modifications as shall have been approved by him. The Mayor and other appropriate officers of the City are authorized and directed to take any and all such additional

actions as may be necessary or desirable to accomplish the terms therein. The Host City Agreement may be amended from time to time as provided therein.

Section 3. Amendment to Ordinance No. 6224. Section 4 of Ordinance No. 6224 is hereby amended to read as:

The City shall pay its allocable portion of the budgeted expenses of maintenance and operation of the SCORE Facility not paid from other sources, which allocable portion shall be determined as provided in the Interlocal Agreement. In addition to the foregoing commitment, the City irrevocably commits to pay its capital contribution in the percentage provided for in the Interlocal Agreement, which is equal to 2931%, to pay debt service on Bonds as the same shall become due and payable and to pay administrative expenses of the Authority with respect to the Bonds (the "Capital Contribution"). The authorization contained in this ordinance is conditioned upon the issuance of Bonds not exceeding the aggregate principal amount of \$100,000,000 (not including any bonds or notes to be refunded with proceeds of such Bonds) without obtaining additional Council approval.

The City recognizes that it is not obligated to pay the Capital Contribution of any other Member City; the Capital Contribution of the City shall be limited to its 2931% allocable share of such obligations; all such payments shall be made by the City without regard to the payment or lack thereof by any other jurisdiction; and the City shall be obligated to budget for and pay its Capital Contribution unless relieved of such payment in accordance with the Interlocal Agreement. All payments with respect to the Bonds shall be made to SCORE in its capacity as administrator and servicer of the Bonds to be issued by the Authority. The City's obligation to pay its Capital Contribution shall be an irrevocable full faith and credit obligation of the City, payable from property taxes levied within the constitutional and statutory authority provided without a vote of the electors of the City on all of the taxable property within the City and other sources of revenues available therefor. The City hereby obligates itself and commits to budget for and pay its Capital Contribution and to set aside and include in its calculation of outstanding nonvoted general obligation indebtedness an amount equal to the principal component of its Capital Contribution for so long as any Bonds issued by the Authority remain outstanding.

Section 4. Confirmation of Ordinance 6224. Ordinance No. 6224 and as amended by this amendatory ordinance is hereby ratified and confirmed.

Section 5. Approval Contingent. If the Amended and Restated SCORE Interlocal Agreement and the Host City Agreement have not been executed by all parties thereto by October 1, 2009, the authority granted under this ordinance shall expire and the amendments to ordinance No. 6224 shall be of no further force and effect unless this ordinance shall have been amended to provide for a later expiration date.

Section 6. Effective Date of Ordinance. This Ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law.

INTRODUCED: \_\_\_\_\_

PASSED: \_\_\_\_\_

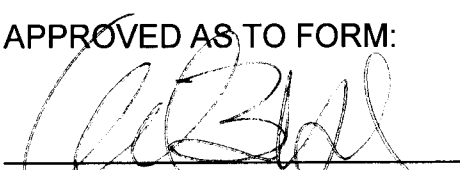
APPROVED: \_\_\_\_\_

\_\_\_\_\_  
PETER B. LEWIS, MAYOR

ATTEST:

\_\_\_\_\_  
Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel B. Heid, City Attorney

PUBLISHED: \_\_\_\_\_

**EXHIBIT A**

**Form of Amended and Restated SCORE Interlocal Agreement  
(attached)**

**AMENDED AND RESTATED SCORE INTERLOCAL AGREEMENT**

**among**

**CITY OF AUBURN,**

**CITY OF DES MOINES,**

**CITY OF FEDERAL WAY,**

**CITY OF RENTON,**

**CITY OF TUKWILA,**

**CITY OF BURIEEN,**

**AND**

**CITY OF SEATAC, WASHINGTON**

**Dated as of \_\_\_\_\_, 2009**

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## **AMENDED AND RESTATED SCORE INTERLOCAL AGREEMENT**

THIS AMENDED AND RESTATED SCORE INTERLOCAL AGREEMENT amends and restates the SCORE Interlocal Agreement, dated as of February 25, 2009 (the "Original Interlocal Agreement" and as amended and restated hereby, the "SCORE Formation Interlocal Agreement"), and is entered into this \_\_\_\_\_, 2009 among the Cities of Auburn, Des Moines, Federal Way, Renton, Tukwila, Burien and SeaTac, Washington (the "Member Cities"), all of which are municipal corporations under the laws and statutes of the State of Washington:

### **RECITALS:**

WHEREAS, the Member Cities are authorized by chapter 70.48 RCW to contract for, establish and maintain correctional facilities in furtherance of public safety and welfare; and

WHEREAS, the Member Cities currently contract with other local governments within the State of Washington for correctional services at a great expense to the City; and

WHEREAS, chapter 39.34 RCW, the Interlocal Cooperation Act, authorizes municipalities in Washington to enter into agreements for the joint undertaking of certain projects as provided therein; and

WHEREAS, the Member Cities entered into a SCORE Interlocal Agreement, effective February 25, 2009 (the "Original Interlocal Agreement"), to form a governmental administrative agency pursuant to RCW 39.34.030(3) known as the South Correctional Entity ("SCORE") to establish and maintain a consolidated correctional facility to be located in the City of Des Moines (the "SCORE Facility") to serve the Member Cities and federal and state agencies and other local governments that may contract with SCORE in the future to provide correctional services essential to the preservation of the public health, safety and welfare; and

WHEREAS, the Member Cities have determined that the SCORE Facility will provide improved correctional facilities within the boundaries of the consolidated service areas at a lower total cost to the participating Member Cities than currently available alternatives or than the participating Member Cities could individually provide; and

WHEREAS, financing for the acquisition, construction, equipping, and improvement of the SCORE Facility will be provided by bonds issued by the South Correctional Entity Facility Public Development Authority (the "SCORE Facility Public Development Authority"), a public development authority chartered by the City of Renton pursuant to RCW 35.21.730 through 35.21.755 and secured by the full faith and credit of the Cities of Renton, Auburn, Federal Way, SeaTac, Tukwila, and Burien (the "Owner Cities"); and

WHEREAS, the Member Cities now desire to amend the Original Interlocal Agreement to allocate the proportion of debt service on bonds issued by the SCORE Facility Public Development Authority to each of the Owner Cities and to designate the City of Des Moines as the host city; and

WHEREAS, the establishment and maintenance of the SCORE Facility will be of substantial benefit to the Member Cities and the public in general;

NOW THEREFORE, it is hereby agreed and covenanted among the undersigned as follows:

**Section 1. Definitions.** Capitalized terms used in this SCORE Formation Interlocal Agreement shall have the following meanings:

**“Administrative Board”** means the governing board of SCORE created pursuant to Section 5 of this SCORE Formation Interlocal Agreement.

**“Bonds”** mean, collectively, bonds, notes or other evidences of borrowing issued by the SCORE Facility Public Development Authority to provide interim and permanent financing for the SCORE Facility and thereafter, to finance or refinance equipment, completion, expansion and other capital improvements essential to maintain the SCORE Facility’s functionality.

**“Budget”** means the budget prepared by the Facility Director in consultation with the Operations Board, and submitted to the Administration Board for its approval in accordance with Section 5 and Section 9 of this SCORE Formation Interlocal Agreement, which budget shall set forth (a) an estimate of the costs of capital improvements required to be made to the SCORE Facility within the applicable year, (b) on a line item basis, all anticipated revenues and expenses for the operation and maintenance of the SCORE Facility for the applicable year, and (c) any information required by policies adopted by the Administrative Board pursuant to Section 9(b) of this SCORE Formation Interlocal Agreement.

**“Capital Contribution”** means, for each Owner City, that Owner City’s Owner Percentage multiplied by the principal of and interest on Bonds as the same shall become due and payable.

**“Costs of Maintenance and Operation”** means all reasonable expenses incurred by SCORE in causing the SCORE Facility to be operated and maintained in good repair, working order and condition, and all costs of administering SCORE.

**“Designated Representative”** means the Mayor or the City Manager, as selected by each Member City, or his or her designee.

**“Facility Director”** means the director of the SCORE Facility selected by the Administrative Board pursuant to Section 7 of this SCORE Formation Interlocal Agreement.

**“Host City”** means the City of Des Moines, Washington.

**“Member Cities”** mean the Owner Cities and the Host City.

**“Operations Board”** means the board formed pursuant to Section 6 of this SCORE Formation Interlocal Agreement.

**“Owner Cities”** mean the Cities of Auburn, Renton, Federal Way, Tukwila, Burien and SeaTac, Washington.

**“Owner Percentage”** means the percentage assigned to each Owner City, as follows:

- (a) Auburn – thirty-one (31%)
- (b) Federal Way – eighteen (18%)
- (c) Renton - thirty-six (36%)
- (d) Tukwila – eight (8%)
- (e) Burien – four (4%)
- (f) SeaTac – three (3%)

**“Presiding Officer”** means the member of the Administrative Board selected pursuant to Section 5 of this SCORE Formation Interlocal Agreement.

**“SCORE”** means the governmental administrative agency established pursuant to RCW 39.34.030(3) by the Member Cities.

**“SCORE Facility”** means the consolidated correctional facility acquired, constructed, improved, equipped, maintained and operated by SCORE.

**“SCORE Facility Public Development Authority”** means the South Correctional Entity Facility Public Development Authority chartered by the City of Renton, Washington.

**“SCORE Formation Interlocal Agreement”** means this Amended and Restated SCORE Interlocal Agreement among the Member Cities, as amended from time to time.

**“Subscribing Agencies”** mean the federal and state agencies, municipal corporations, and other local governments, other than the Member Cities, that contract with SCORE for correctional services at the SCORE Facility pursuant to the terms of this SCORE Formation Interlocal Agreement.

## **Section 2. SCORE Facility; Authority.**

(a) Administrative Agency. There is hereby established a governmental administrative agency pursuant to RCW 39.34.030(3) to be known as the South Correctional Entity (“SCORE”). SCORE shall initially consist of the Member Cities.

(b) Powers of SCORE. SCORE shall have the power to acquire, construct, own, operate, maintain, equip, and improve a correctional facility known as the “SCORE Facility” and to provide correctional services and functions incidental thereto, for the purpose of detaining arrestees and sentenced offenders in the furtherance of public safety and emergencies within the jurisdiction of the Member Cities. The SCORE Facility may serve the Member Cities and Subscribing Agencies which are in need of correctional facilities. Any agreement with a Subscribing Agency shall be in writing and approved by SCORE as provided herein.

(c) Administrative Board. The affairs of SCORE shall be governed by the Administrative Board formed pursuant to Section 5 of this SCORE Formation Interlocal Agreement. The Administrative Board shall have the authority to:

1. Recommend action to the legislative bodies of the Member Cities;
2. Approve the Budget, adopt financial policies and approve expenditures;
3. Establish policies for investing funds and incurring expenditures of Budget items for the SCORE Facility;
4. Review and adopt a personnel policy for the SCORE Facility;
5. Establish a fund, or special funds, as authorized by chapter 39.34 RCW for the operation of the SCORE Facility;
6. Conduct regular meetings as may be designated by the Administrative Board;
7. Determine what services shall be offered at the SCORE Facility pursuant to the powers of SCORE and under what terms they shall be offered;
8. Enter into agreements with third parties for goods and services necessary to fully implement the purposes of this SCORE Formation Interlocal Agreement;
9. Establish rates for services provided to members, subscribers or participating agencies;
10. Direct and supervise the activities of the Operations Board and the Facility Director;
11. Enter into an agreement with a public corporation or otherwise to incur debt;
12. Make purchases or contract for services necessary to fully implement the purposes of this SCORE Formation Interlocal Agreement;
13. Enter into agreements with and receive and distribute funds from any federal, state or local agencies;
14. Receive and account for all funds allocated to the SCORE Facility from its members;
15. Purchase, take, receive, lease, take by gift, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, in the name of the SCORE Facility;

16. Sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of property and assets;
17. Sue and be sued, complain and defend, in all courts of competent jurisdiction in its name;
18. Make and alter bylaws for the administration and regulation of its affairs;
19. Enter into contracts with Subscribing Agencies to provide correctional services;
20. Employ employees as necessary to accomplish the terms of this SCORE Formation Interlocal Agreement;
21. Establish policies and procedures for adding new cities as parties to this SCORE Formation Interlocal Agreement; and
22. Engage in any and all other acts necessary to further the goals of this SCORE Formation Interlocal Agreement.

### **Section 3. Duration of Agreement.**

The initial duration of this SCORE Formation Interlocal Agreement shall be for a period of ten (10) years from its effective date and, thereafter, shall automatically extend for additional five (5) year periods unless terminated as provided in this SCORE Formation Interlocal Agreement. Notwithstanding the foregoing, this SCORE Formation Interlocal Agreement shall not terminate until all Bonds issued by the SCORE Facility Public Development Authority as provide in Section 15 of this SCORE Formation Interlocal Agreement are no longer outstanding.

### **Section 4. Withdrawal and Termination.**

(a) Subject to Section 4(g) below, any Member City may withdraw its membership and terminate its participation in this SCORE Formation Interlocal Agreement by providing written notice and serving that notice on the other Member Cities on or before December 31 in any one-year. After providing appropriate notice as provided in this Section, that Member City's membership withdrawal shall become effective on the last day of the year following delivery and service of appropriate notice to all other Member Cities.

(b) Subject to Section 3 above, four (4) or more Member Cities may, at any one time, by written notice provided to all Member Cities, call for a termination of SCORE and this SCORE Formation Interlocal Agreement. Upon an affirmative supermajority vote (majority plus one) by the Administrative Board, SCORE shall be directed to terminate business, and a date will be set for final termination, which shall be at least one (1) year from the date of the vote to terminate this SCORE Formation Interlocal Agreement. Upon the final termination date, this SCORE Formation Interlocal Agreement shall be fully terminated.

(c) Subject to Section 4(g) below, in the event any Owner City or the Host City fails to budget for or provide its applicable annual funding requirements for SCORE as provided in Section 15 hereof, the remaining Member Cities may, by majority vote, immediately declare the underfunding City to be terminated from this SCORE Formation Interlocal Agreement and to have forfeited all its rights under this SCORE Formation Interlocal Agreement as provided in Section 4(e). The remaining Member Cities may, at their option, withdraw SCORE's correctional services from that City, or alternatively, enter into a Subscribing Agency agreement with that City under terms and conditions as the remaining Member Cities deem appropriate.

(d) Time is of the essence in giving any termination notice.

(e) If an individual Owner City withdraws its membership in SCORE, the withdrawing City will forfeit any and all rights it may have to SCORE's real or personal property, or any other ownership in SCORE, unless otherwise provided by the Administrative Board.

(f) Upon termination of this SCORE Formation Interlocal Agreement, all property acquired during the life of this SCORE Formation Interlocal Agreement shall be disposed of in the following manner:

1. All real and personal property acquired pursuant to this SCORE Formation Interlocal Agreement shall be distributed to the Owner Cities based on the Owner Percentages; and
2. All unexpected funds or reserve funds shall be distributed based on the percentage of average daily population at the SCORE Facility for the last three (3) years prior to the termination date of those Member Cities still existing on the day prior to the termination date.

(g) Notwithstanding any of the other rights, duties or obligations of any Member City under this Section 4, the withdrawal of any Owner City from this SCORE Formation Interlocal Agreement shall not discharge or relieve the Owner City that has withdrawn pursuant to Section 4(a) or been terminated pursuant to Section 4(c) of its obligation to pay debt service on Bonds issued by the SCORE Facility Public Development Authority. An Owner City may be relieved of its obligation under this SCORE Formation Interlocal Agreement to make payments with respect to its Capital Contribution if the Administrative Board, by supermajority vote (majority plus one), authorizes such relief based on a finding that such payments are not required to pay debt service on Bonds issued by the SCORE Facility Public Development Authority.

#### **Section 5. Administrative Board.**

(a) Formation. An Administrative Board composed of the Designated Representative from each Member City shall govern the affairs of SCORE.

(b) Allocation of Votes. Each Board member shall have an equal vote and voice in all Board decisions.

(c) Voting Requirements. Votes regarding (1) debt; (2) approval of the Budget; (3) employment of the Facilities Director; (4) cost allocations made prior to the issuance of Bonds pursuant to Section 16 of this SCORE Formation Interlocal Agreement; and (5) approval of labor contracts, shall require an affirmative vote of a supermajority (majority plus one) of the Member Cities, two (2) of which shall have the highest and the second highest average daily population in the SCORE Facility for the 12-month period ending June 30 of the preceding year. Votes regarding (1) the conveyance of real property; (2) the addition of additional services pursuant to Section 11 of this SCORE Formation Interlocal Agreement not directly incidental to correctional services (such as providing court services); and (3) matters addressed in Sections 4(b) and (g) of this SCORE Formation Interlocal Agreement, shall require an affirmative vote of a supermajority (majority plus one) of the Member Cities.

(d) Parliamentary Authority. Unless otherwise provided, Robert's Revised Rules of Order (newly revised) shall govern all procedural matters relating to the business of the Administrative Board.

(e) Officers of the Administrative Board. Members of the Administrative Board shall select a Presiding Officer from its members, together with such other officers as a majority of the Administrative Board may determine. Subject to the control of the Administrative Board, the Presiding Officer shall have general supervision, direction and control of the business and affairs of SCORE. On matters decided by the Administrative Board, the signature of the Presiding Officer alone is sufficient to bind SCORE.

(f) Meetings of the Administrative Board. There shall be a minimum of two (2) meetings each year, and not less than fifteen (15) days notice shall be given to all members prior to any such meeting. Unless otherwise designated by the Presiding Officer, the first meeting shall be held on the second Tuesday of February of each year to review the prior year's service. The second meeting shall be on the second Tuesday of September of each year to consider and adopt a Budget for the following fiscal year. Other meetings may be held upon request of the Presiding Officer or any two members. All meetings shall be open to the public to the extent required by chapter 42.30 RCW.

Five (5) members of the Administrative Board must be present at any meeting of the Administrative Board to comprise a quorum, and for the Administrative Board to transact any business. Proxy voting shall not be allowed. Members of the Administrative Board may participate in a meeting through the use of any means of communication by which all members and members of the public participating in such meeting can hear each other during the meeting. Any members of the Administrative Board participating in a meeting by such means is deemed to be present in person at the meeting for all purposes including, but not limited to, establishing a quorum.

(g) Bylaws. The Administrative Board shall be authorized to establish bylaws that govern procedures of that Board and the SCORE Facility's general operations.

(h) Administrative Board Review. A general or particular authorization or review and concurrence of the Administrative Board by majority vote shall be necessary for all capital expenditures or contracts in excess of \$50,000.

## **Section 6. Operations Board.**

(a) Formation. There is further established an Operations Board which shall consist of up to nine (9) members selected as provided in this paragraph. One (1) member shall be designated by each of the Member Cities, and up to two (2) at-large members shall be selected, by majority vote, by the Subscribing Agencies to represent the police departments of the Subscribing Agencies. At the time set for election of the at-large members, only the representatives of the Subscribing Agencies, then in attendance, will participate in the election. The Member Cities' Operations Board representatives shall not participate in the at-large member elections. The at-large members shall serve one-year terms, unless otherwise determined by majority vote of the Operations Board. The purpose and duties of the Operations Board shall be established by the Administrative Board.

(b) Voting and Meetings of the Operations Board. Each member of the Operations Board shall have an equal vote in all Operations Board decisions. The Operations Board shall be authorized to establish bylaws that govern its procedures. Unless otherwise provided, Robert's Revised Rules of Order shall govern all procedural matters relating to the business of the Operations Board. The Operations Board shall elect a presiding officer from its members and shall likewise determine the time and place of its meetings; at least one (1) regular meeting shall be held each month at a time and place designated by the presiding officer or a majority of its members. Special meetings may be called by the presiding officer or any two (2) members upon giving all other members not less than 24 hours prior written notice (electronic or facsimile notice acceptable). In an emergency, the Operations Board may dispense with written notice requirements for special meetings, but must, in good faith, implement best efforts to provide fair and reasonable notice to all of the members of the Operations Board. All meetings shall be open to the public to the extent required by chapter 42.30 RCW.

A majority of the members of the Operations Board must be present at any meeting of the Operations Board to comprise a quorum, and for the Operations Board to transact any business. Proxy voting shall not be allowed. Members of the Operations Board may participate in a meeting through the use of any means of communication by which all members and members of the public participating in such meeting can hear each other during the meeting. Any members of the Operations Board participating in a meeting by such means is deemed to be present in person at the meeting for all purposes including, but not limited to, establishing a quorum.

## **Section 7. Facility Director.**

Not later than one hundred eighty (180) days prior to the completion of the SCORE Facility, the Operations Board shall recommend to the Administrative Board a person to act as the Facility Director. The Administrative Board may accept or reject the Operations Board recommendation. Such Facility Director shall be responsible to the Administrative Board, shall develop the Budget in consultation with the Operations Board and other appropriate means in



order to fully implement the purposes of this SCORE Formation Interlocal Agreement. The Facility Director shall administer the program in its day-to-day operations consistent with the policies adopted by the Administrative Board. Such Facility Director shall have experience in technical, financial and administrative fields, and such appointment shall be on the basis of merit only.

#### **Section 8. Personnel Policy.**

(a) The Operations Board shall submit to the Administrative Board within one hundred eighty (180) days prior to the completion of the SCORE Facility, a proposed personnel policy for the SCORE Facility for its approval, rejection or modification. All of such modifications or revisions shall be subject to the final approval of the Administrative Board.

(b) Such personnel policy shall provide for the initial appointment to the SCORE Facility's staff from the personnel presently, permanently appointed or assigned as corrections officers in the Member Cities. Additional employees shall be appointed by the Facility Director upon meeting the qualifications established by the Operations Board and adopted by the Administrative Board. None of such employees shall be commissioned members of any emergency service, but may be eligible for membership under the Public Employees Retirement Systems (PERS), or Public Safety Employees Retirement System (PSERS), as provided by law.

#### **Section 9. Budget, Policies and Operations.**

(a) The Facility Director shall distribute a proposed Budget to the Operations Board on or before August 1 of each year, which Budget shall then be provided to the Administrative Board no later than September 1 of such year. Thereafter, the Member Cities shall be advised of the programs and objectives as contained in said proposed Budget, and of the required financial participation for the ensuing year.

(b) The Administrative Board shall develop financial policies for SCORE as part of the budgetary process. Such policies may include, but are not limited to, (1) items to be provided for in the Budget, (2) a minimum contribution amount for each Member City to pay for Costs of Maintenance and Operation, (3) the process for allocating unexpended amounts paid by the Member Cities for Costs of Maintenance and Operation and assessing the Member Cities in the event of cost overruns, (4) establishing and maintaining reserve accounts, if any, and (5) the process for adding a new party to this SCORE Formation Interlocal Agreement.

(c) The allocation of prorated financial participation among the Member Cities shall be calculated as provided in Section 15 hereof. Each Member City shall be unconditionally obligated to provide its allocable share of costs as provided in this SCORE Formation Interlocal Agreement.

#### **Section 10. Contracts and Support Services.**

(a) The Administrative Board (or the Operations Board or the Facility Director, if so designated by the Administrative Board) shall, as necessary, contract with local governments for

the use of space for its operations, auxiliary services including but not limited to records, payroll, accounting, purchasing, and data processing, and for staff prior to the selection of a Facility Director for the SCORE Facility.

(b) The Member Cities hereby agree to furnish legal assistance, from time to time, as approved by the Administrative Board. The Administrative Board may contract with the City Attorney of a Member City, other local government, or independent legal counsel as necessary.

#### **Section 11. Policy and System Evaluation.**

The Facility Director shall actively and continually consider and evaluate all means and opportunities toward the enhancement of operations effectiveness for correctional services so as to provide maximum and ultimate benefits to the members of the general public. The Facility Director shall present his or her recommendations to the Operations Board from time to time. Any substantive change or deviation from established policy shall be subject to the prior approval of the Administrative Board.

#### **Section 12. Additional Services Authorized.**

The Administrative Board shall evaluate and determine the propriety of including additional correctional services for local governments, whenever so required, and shall determine the means of providing such services, together with its costs and effects. These additional services may include, but shall not be limited to the following: alternatives to incarceration, inmate transportation systems, and consolidated court services.

#### **Section 13. Inventory and Property.**

(a) Equipment and furnishings for the operation of the SCORE Facility shall be acquired by SCORE as provided by law. If any Member City furnishes equipment or furnishings for SCORE's use, title to the same shall remain with the respective local entity unless that equipment is acquired by SCORE.

(b) The Facility Director shall, at the time of preparing the proposed Budget for the ensuing year, submit to the Operations Board a complete inventory together with current valuations of all equipment and furnishings owned by, leased or temporarily assigned to SCORE. In case of dissolution of SCORE, such assigned or loaned items shall be returned to the lending governmental entity and all other items, including real property, or funds derived from the sale thereof, shall be distributed in accordance with Section 4(f) above.

(c) Title to real property purchased or otherwise acquired shall be held in the name of SCORE; provided however, that for valuable consideration received, SCORE may convey ownership of any real property as may be approved by supermajority vote (majority plus one) of the Administrative Board.

**Section 14. Local Control.**

Each Member City and Subscribing Agency shall retain the responsibility and authority for the operation of its police departments, and for such equipment and services as are required at its place of operation to utilize the SCORE Facility.

**Section 15. SCORE Facility Financing and Construction; SCORE Facility Public Development Authority.**

(a) SCORE Facility. In order to provide necessary services for the Member Cities and the Subscribing Agencies, SCORE shall acquire, construct, improve, equip, maintain and operate the SCORE Facility. The SCORE Facility is expected to be located in the City of Des Moines, Washington.

(b) Contracts for the SCORE Facility. The Administrative Board shall authorize, and the Presiding Officer of the Administrative Board, or his or her approved designee, will execute contracts for the development of the SCORE Facility. These contracts shall include, without limitation, contracts for architectural design and engineering, project management services; real estate acquisition, and construction.

(c) SCORE Facility Public Development Authority. In order to finance costs of acquiring, constructing, improving and equipping the SCORE Facility, the City of Renton has chartered the SCORE Facility Public Development Authority. The purpose of the SCORE Facility Public Development Authority is to issue Bonds to finance and refinance the acquisition, construction, improvement and equipping of the SCORE Facility. The Administrative Board shall serve *ex officio* as the Board of Directors of the SCORE Facility Public Development Authority as further provided in the Authority's organizational charter. Upon issuance of Bonds by the SCORE Facility Public Development Authority, Bond proceeds shall be deposited on behalf of SCORE and used for the purposes set forth herein. SCORE shall be obligated to make payments to the SCORE Facility Public Development Authority at the time and in the amounts required to pay principal of and interest on the Bonds and any administrative costs of the SCORE Facility Public Development Authority.

(d) SCORE Facility Financing.

(1) *Capital Contributions.* Each Owner City shall be obligated to pay an amount equal to its Capital Contribution without regard to the payment or lack thereof by any other Owner City. No Owner City shall be obligated to pay the Capital Contribution of any other Owner City, and each Owner City shall be obligated to budget for and pay its Capital Contribution. The obligation of each Owner City to pay its Capital Contribution shall be an irrevocable full faith and credit obligation of such Owner City, payable from property taxes levied within the constitutional and statutory authority provided without a vote of the electors of the Owner City on all of the taxable property within the Owner City and other sources of revenues available therefor. Each Owner City has or will set aside and include in its calculation of outstanding nonvoted general obligation indebtedness an amount equal to the principal component of its Capital

Contribution for so long as Bonds remain outstanding, unless relieved of such payment in accordance with Section 4(g). Each Owner City's obligation to pay the Capital Contribution shall not be contingent on the receipt of any revenues from other sources, including but not limited to Subscribing Agencies or the Host City.

An Owner City may prepay its Capital Contribution in a manner that is consistent with the authorizing documents for the Bonds; provided, however, that any such prepayment of one or more Owner Cities shall not affect the Capital Contribution of the remaining Owner Cities. Any Owner City that elects to prepay its Capital Contribution shall be responsible for paying all costs associated with such prepayment.

(2) *Costs of Maintenance and Operation.* Subject to the terms of the financial policies established by the Administrative Board pursuant to Section 9(b) of this SCORE Formation Interlocal Agreement, each Member City shall be obligated to pay its allocable portion of Costs of Maintenance and Operation of the SCORE Facility, including any debt issued to finance such costs, as determined in this subsection.

(i) Until the end of the first calendar year of operations of the SCORE Facility (estimated to be December 31, 2012), the allocable portion that each Member City shall be obligated to pay of Costs of Maintenance and Operation in such year shall be equal to the Member City's 2007 average daily population in all correctional facilities (as provided in the SCORE financial policies) multiplied by the Costs of Maintenance and Operation.

(ii) Commencing with the calendar year following the first calendar year of operations, the allocable portion that each Member City shall be obligated to pay of Costs of Maintenance and Operation shall be based on the Member City's average daily population in the SCORE Facility, as supplemented as necessary with the average daily population allocable to the Member Cities in all correctional facilities, for the 12-month period ending June 30 of the preceding year.

(iii) Commencing with the third calendar year of operations, the allocable portion that each Owner City shall be obligated to pay of Costs of Maintenance and Operation shall be based on the Member City's average daily population in the SCORE Facility for the 12-month period ending June 30 of the preceding year.

(e) Billing and Allocation of Revenues. Each Member City shall be billed for its Capital Contribution and its portion of Costs of Maintenance and Operation, as applicable, on a semiannual basis, or more frequently as determined by the Administrative Board, calculated as provided for in Section 15(d) above. Revenues received in a calendar year from Subscribing Agencies or from sources other than the contributions described in Section 15(d) above shall be allocated among the Member Cities as follows: (i) each Member City shall receive a credit against its obligation to pay Costs of Maintenance and Operation based on that Member City's proportional average daily population as calculated in Section 15(d)(2) above, and (ii) each

Owner City shall receive a credit against its Capital Contribution based on that Owner City's proportional Owner Percentage.

(f) Host City. Pursuant to RCW 35.21.740, the City of Des Moines, as the Host City, hereby authorizes the City of Renton to operate the SCORE Facility Public Development Authority within the corporate limits of the City of Des Moines in a manner consistent with the terms of this SCORE Formation Interlocal Agreement. The Host City shall enter into a written agreement with SCORE and any of the Owner Cities, as applicable, to establish a host city fee to be paid in exchange for the availability of the SCORE Facility.

(g) Tax-Exemption. The Member Cities shall not (1) make any use of the proceeds from the sale of Bonds or any other money or obligations of the SCORE Facility Public Development Authority or the Member Cities that may be deemed to be proceeds of the Bonds pursuant to Section 148(a) of the Code that will cause the Bonds to be "arbitrage bonds" within the meaning of said Section and said regulations, or (2) act or fail to act in a manner that will cause the Bonds to be considered obligations not described in Section 103(a) of the Code.

(h) Additional Financing. Notwithstanding anything to the contrary in this SCORE Formation Interlocal Agreement, bonds, notes or other evidences of borrowing may be issued from time to time by the SCORE Facility Public Development Authority or another issuer pursuant a separate agreement between one or more Member Cities and other entities to provide additional financing for the SCORE Facility on terms as agreed upon by the parties thereto.

(i) Special Facility Designation. The SCORE Facility, including all equipment, furnishings, and fixtures is critical to the ability of the Member Cities and the Subscribing Agencies to provide necessary and secure correctional services and assure public safety. Consequently, the SCORE Facility is essential to the preservation of the public health, safety, and welfare. As a result, the SCORE Facility's equipment, furnishings, and fixtures are special facilities subject to unique standards. Accordingly, based on the facts presented in this subsection, it is hereby resolved that the established policy of the Member Cities is that the SCORE Facility constitutes a "special facility" under RCW 39.04.280(1)(b), and all purchases of any kind or nature for the SCORE Facility shall be exempt from competitive bidding requirements as prescribed by Washington State statute but shall be governed by the procurement policy established by the Administrative Board as amended from time to time.

#### **Section 16. Preliminary Costs of the SCORE Facility; Bellevue Property**

The Administrative Board shall allocate costs associated with the design, acquisition, construction, improvement and equipping of the SCORE Facility prior to the issuance of the Bonds by the SCORE Facility Public Development Authority among the Member Cities by an affirmative vote of a supermajority (majority plus one) of the of the Member Cities, two (2) of which shall have the highest and the second highest average daily population in the SCORE Facility for the 12-month period ending June 30 of the preceding year. Any costs of the SCORE Facility paid by a Member City pursuant to this section may be reimbursed out of proceeds of Bonds to the extent permitted by law.

The Member Cities hereby agree that any net proceeds received from the sale of the property located at 1440 116<sup>th</sup> Avenue NE, Bellevue, Washington and 1412 116<sup>th</sup> Avenue NE, Bellevue, Washington (estimated to be approximately \$3,180,000) shall be deposited with SCORE and used to finance costs associated with the design, acquisition, construction, improvement and equipping of the SCORE Facility.

**Section 17. Compliance with Continuing Disclosure Requirements**

To the extent necessary to meet the conditions of paragraph (d)(2) of United States Securities and Exchange Commission Rule 15c2-12 (the "Rule"), as applicable to a participating underwriter or remarketing agent for Bonds, each Owner City will enter into an undertaking in a form acceptable at the time to the participating underwriter or remarketing agent, as the case may be.

**Section 18. Filing of Agreement**

Upon execution, this SCORE Formation Interlocal Agreement shall be filed as required in RCW 39.34.040.

**Section 19. Severability**

If any part, paragraph, section or provision of this SCORE Formation Interlocal Agreement is adjudged to be invalid by any court of competent jurisdiction such adjudication shall not affect the validity of any remaining section, part or provision of this SCORE Formation Interlocal Agreement.

**Section 20. Execution and Amendment**

This SCORE Formation Interlocal Agreement shall be executed on behalf of each Member City by its Designated Representative, or other authorized officer of the Member City, and pursuant to an appropriate motion, resolution or ordinance of each Member City. This SCORE Formation Interlocal Agreement shall be deemed adopted upon the date of execution by the last so Designated Representative or other authorized officer.

This SCORE Formation Interlocal Agreement may not be effectively amended, changed, modified or altered, except by an instrument in writing duly executed by the Designated Representative, or other authorized officer, of each Member City and pursuant to an appropriate motion, resolution or ordinance of each Member City, so long as such amendment does not materially adversely affect the owners of the Bonds or affect the tax-exempt status of the interest paid on the Bonds. If the Bonds issued by the SCORE Facility Public Development Authority are rated by a rating agency, then no amendment that adds or removes an Owner City from this SCORE Formation Interlocal Agreement or revises Section 15 of this SCORE Formation Interlocal Agreement shall be permitted unless the SCORE Facility Public Development Authority has received written confirmation from the rating agency that such amendment will not result in a reduction or withdrawal of the rating on the Bonds. If the Bonds are not rated by a rating agency, then no such amendment as described in the preceding sentence will be permitted

unless in the opinion of the SCORE Facility Public Development Authority such amendment will not materially adversely affect the owners of the Bonds.

**Section 21. Third Party Beneficiaries**

The SCORE Facility Public Development Authority and the holders from time to time of the Bonds shall be third party beneficiaries hereof and the commitments made herein shall be for their further benefit.

**Section 22. Hold Harmless**

The parties to this SCORE Formation Interlocal Agreement shall defend, indemnify and save one another harmless from any and all claims arising out of the performance of this SCORE Formation Interlocal Agreement, except to the extent that the harm complained of arises from the sole negligence of one of the participating members. Any loss or liability resulting from the negligent acts errors or omissions of the Administrative Board, Operations Board, Facility Director and or staff, while acting within the scope of their authority under this SCORE Formation Interlocal Agreement shall be borne by SCORE exclusively.

**Section 23. Counterparts**

This SCORE Formation Interlocal Agreement may be executed in any number of counterparts, each of whom shall be an original, but those counterparts will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this SCORE Formation Interlocal Agreement as of the day and year first written above.

CITY OF AUBURN

CITY OF RENTON

By: \_\_\_\_\_

By: \_\_\_\_\_

CITY OF DES MOINES

CITY OF TUKWILA

By: \_\_\_\_\_

By: \_\_\_\_\_

CITY OF FEDERAL WAY

CITY OF BURIEN

By: \_\_\_\_\_

By: \_\_\_\_\_

CITY OF SEATAC

By: \_\_\_\_\_

## HOST CITY AGREEMENT

THIS HOST CITY AGREEMENT ("Host City Agreement") among the Cities of Renton, Federal Way, Auburn, and Des Moines, Washington, all of which are municipal corporations under the laws and statutes of the State of Washington, and the South Correctional Entity, a governmental administrative agency formed pursuant to RCW 39.34.030(3) ("SCORE," and together with Renton, Federal Way, Auburn and Des Moines, the "Parties"), is entered into this \_\_\_\_\_, 2009:

### RECITALS:

WHEREAS, chapter 39.34 RCW, the Interlocal Cooperation Act, authorizes municipalities in Washington to enter into agreements for the joint undertaking of certain projects as provided therein; and

WHEREAS, the Cities of Auburn, Renton, Federal Way, Des Moines, Burien, SeaTac and Tukwila, Washington (the "Member Cities") entered into a SCORE Interlocal Agreement, dated February 25, 2009 (the "Original Interlocal Agreement"), to form a governmental administrative agency pursuant to RCW 39.34.030(3) known as the South Correctional Entity ("SCORE") to establish and maintain a consolidated correctional facility to be located in the City of Des Moines (the "SCORE Facility") to serve the Member Cities and federal and state agencies and other local governments that may contract with SCORE in the future to provide correctional services essential to the preservation of the public health, safety and welfare; and

WHEREAS, the Member Cities have determined that the SCORE Facility will provide improved correctional facilities within the boundaries of the consolidated service areas at a lower total cost to the participating Member Cities than currently available alternatives or than the participating Member Cities could individually provide; and

WHEREAS, financing for the acquisition, construction, equipping, and improvement of the SCORE Facility will be provided by bonds issued by the South Correctional Entity Facility Public Development Authority (the "Authority"), a public development authority chartered by Renton pursuant to RCW 35.21.730 through 35.21.755; and

WHEREAS, under the Original Interlocal Agreement, bonds issued by the Authority are secured by the full faith and credit of each Member City in the percentages set forth therein; and

WHEREAS, the Member Cities now desire to amend the Original Interlocal Agreement pursuant to the terms of an Amended and Restated SCORE Interlocal Agreement (the "SCORE Formation Interlocal Agreement") to reallocate the proportion of debt service on bonds issued by the Authority among Auburn, Renton, Federal Way, Burien, SeaTac, and Tukwila (the "Owner Cities") and to designate Des Moines as the host city; and

WHEREAS, as the host city, Des Moines will have all of the same powers and privileges under the SCORE Formation Interlocal Agreement as the other Member Cities, including voting authority and obligations with respect to paying costs of maintenance and operation of the



SCORE Facility, but is not obligated to make capital contributions toward the payment of debt service on bonds issued by the Authority; and

WHEREAS, the SCORE Formation Interlocal Agreement requires Des Moines to enter into a written agreement with SCORE and the Owner Cities, as necessary, pursuant to which Des Moines will pay a host city fee for the availability of the SCORE Facility; and

WHEREAS, the purpose of this agreement is to set forth the host city fee to be paid by Des Moines and provisions related thereto;

NOW THEREFORE, it is hereby agreed and covenanted among the undersigned as follows:

Section 1. Definitions. Capitalized terms used in this Host City Agreement shall have the following meanings. Capitalized terms used in this Host City Agreement not otherwise defined herein shall have the meanings given such terms in the SCORE Formation Interlocal Agreement.

“Administrative Board” means the governing board of SCORE created pursuant to the SCORE Formation Interlocal Agreement.

“Authority” means the South Correctional Entity Facility Public Development Authority chartered by the City of Renton, Washington.

“Bonds” mean, collectively, bonds, notes or other evidences of borrowing issued by the Authority to provide interim and permanent financing for the SCORE Facility and thereafter, to finance or refinance equipment, completion, expansion and other capital improvements essential to maintain the SCORE Facility’s functionality.

“Capital Contribution” shall have the meaning set forth in the SCORE Formation Interlocal Agreement.

“Costs of Maintenance and Operation” means all reasonable expenses incurred by SCORE in causing the SCORE Facility to be operated and maintained in good repair, working order and condition, and all costs of administering SCORE.

“Designated Representative” means the Mayor or the City Manager, as selected by each Member City, or his or her designee.

“Host City Agreement” means this Host City Agreement among the Cities of Renton, Federal Way, Auburn, and Des Moines, Washington, and SCORE, as amended from time to time.

“Host City Fee” means the fee to be paid by Des Moines as set forth in Section 2 of this Host City Agreement.

“Member Cities” mean the Owner Cities and Des Moines.

“Owner Cities” mean the Cities of Auburn, Federal Way, Renton, Tukwila, Burien and SeaTac, Washington.

“SCORE” means the governmental administrative agency established pursuant to RCW 39.34.030(3) by the Member Cities.

“SCORE Facility” means the consolidated correctional facility acquired, constructed, improved, equipped, maintained and operated by SCORE.

“SCORE Formation Interlocal Agreement” means the Amended and Restated SCORE Interlocal Agreement among the Member Cities, as may be further amended from time to time

“Subscribing Agencies” mean the federal and state agencies, municipal corporations, and other local governments, other than the Member Cities, that contract with SCORE for correctional services at the SCORE Facility pursuant to the terms of the SCORE Formation Interlocal Agreement.

Section 2. Host City Fee. A Host City Fee shall be paid by Des Moines for the availability of the SCORE Facility under the terms of this Host City Agreement and the SCORE Formation Interlocal Agreement. The Host City Fee shall be an amount equal to 5% of the principal of and interest due on Bonds issued by the Authority. In consideration of the payment of the Host City Fee, Des Moines shall not be obligated to make a Capital Contribution under Section 15(d)(1) of the SCORE Formation Interlocal Agreement. Payment of the Host City Fee as provided herein shall be in addition to and not in lieu of the obligation of Des Moines to pay its allocable portion of Costs of Maintenance and Operation of the SCORE Facility as provided in Section 15(d)(2) of the SCORE Formation Interlocal Agreement.

Section 3. Method and Timing of Payments; Accounting and Allocation of Revenue.

(a) *Method of Payments.* SCORE shall bill Des Moines its Host City Fee on a semiannual basis, or more frequently as determined by the Administrative Board. Payments shall be made by Des Moines in immediately available funds on the date when due.

(b) *Timing of Payments.* Host City Fee payments shall be made by Des Moines to SCORE no later than the date which the Owner Cities are obligated to make Capital Contributions to pay debt service on Bonds issued by the Authority, as further provided in financial policies approved by the Administrative Board.

(c) *Accounting.* SCORE shall account for and hold separately any payments received from Des Moines under this Host City Agreement from other amounts received by SCORE under the SCORE Formation Interlocal Agreement. Renton, Auburn, and Federal Way shall each have a 2/5, 2/5, and 1/5 interest, respectively, in any payments received by SCORE under the terms of this Host City Agreement, and such payments shall be credited against amounts owed by Renton, Auburn and Federal Way under the SCORE Formation Interlocal Agreement.

Notwithstanding the foregoing, nothing in this Host City Agreement shall relieve Renton, Auburn or Federal Way from paying its Capital Contribution at the times and in the amounts required by Section 15(d)(1) of the SCORE Formation Interlocal Agreement.

Section 4. Nature of the Obligation. The obligation of Des Moines to pay the Host City Fee in the amounts, at the times and in the manner described herein shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, abatement or otherwise. Des Moines hereby agrees to pay the Host City Fee at the times and in the amounts required hereunder regardless of whether the SCORE Facility is operating at any particular time. The obligation of Des Moines to pay the Host City Fee shall be an irrevocable full faith and credit obligation of Des Moines, payable from property taxes levied within the constitutional and statutory authority provided without a vote of the electors of Des Moines on all of the taxable property within Des Moines and other sources of revenues available therefor. Des Moines hereby agrees to set aside and include in its calculation of outstanding nonvoted general obligation indebtedness an amount equal to the principal amount of the Host City Fee so long as Bonds remain outstanding for the duration of this Host City Agreement.

Des Moines may prepay the Host City Fee in the same manner permitted to Owner Cities under the terms of the SCORE Formation Interlocal Agreement. Any such prepayment shall be allocated among Renton, Auburn, and Federal Way as provided in Section 3(c) hereof.

Section 5. Term of Host City Agreement; Termination.

(a) The term of this Host City Agreement shall commence on the effective date of this Host City Agreement and, unless otherwise terminated or amended as set forth herein, shall automatically terminate upon the earlier of (i) expiration or termination of the SCORE Formation Interlocal Agreement, or (b) the date when Bonds issued by the Authority are no longer outstanding.

(b) Any Party to this Host City Agreement may withdraw its membership and terminate its participation in this Host City Agreement by providing written notice to the other Parties hereto. Notwithstanding the foregoing, Des Moines may not withdraw its membership and terminate its participation in this Host City Agreement for so long as Bonds issued by the Authority are outstanding unless the other Parties hereto have consented in writing to such withdrawal and termination.

(c) Real and personal property acquired during the life of the SCORE Formation Interlocal Agreement shall be held in the name of SCORE and shall be disposed of as provided in Section 4 thereof. In consideration of the payments made by Des Moines as provided in Section 2 of this Host City Agreement, Renton, Auburn, and Federal Way each hereby agree to allocate 2%, 2%, and 1%, respectively, of the total equity in real and personal property held by SCORE and financed with proceeds of the Bonds to Des Moines upon termination of this Host City Agreement.

(d) Upon the occurrence of a default by Des Moines in its obligations hereunder, the other Parties hereto may proceed to protect and enforce their right in equity or at law, either in

mandamus or for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy, as such Parties may deem most effectual to protect and enforce any of its rights or interests hereunder.

Notwithstanding anything to the contrary in this Host City Agreement, in the event that Des Moines fails to budget for or pay the Host City Fee when due, the remaining Parties hereto may immediately declare this Host City Agreement to be terminated, and may withdraw SCORE's correctional services from Des Moines, or alternatively, enter into a Subscribing Agency agreement with Des Moines under terms and conditions as the remaining Member Cities deem appropriate; provided, however, neither the termination or withdrawal of services from Des Moines shall relieve the obligation of Des Moines to pay the Host City Fee. Upon such event, Des Moines will have forfeited its right to receive an allocation of the equity in real and personal property held by SCORE and financed with proceeds of the Bonds as provided in Section 5(c) of this Host City Agreement, and Renton, Auburn and Federal Way shall be entitled to their respective full allocation of equity as provided in Section 4 of the SCORE Formation Interlocal Agreement.

#### Section 6.      Miscellaneous.

(a)      *Governing Law; Venue.* This Host City Agreement is governed by and shall be construed in accordance with the laws of the State of Washington and shall be liberally construed so as to carry out the purposes hereof. Except as otherwise required by applicable law, any action under this Host City Agreement shall be brought in the Superior Court of the State of Washington in and for King County.

To the extent permitted by applicable law, each of the parties waives any right to have a jury participate in resolving any dispute, whether sounding in contract, tort, or otherwise between the parties arising out of, connected with, related to, or incidental to the relationship between any of them in connection with this Host City Agreement or the transactions contemplated hereby. Instead, any such dispute resolved in court will be resolved in a bench trial without a jury.

(b)      *Attorneys' Fees and Expenses.* If a default arises under any of the provisions of this Host City Agreement and any Party hereto should employ attorneys (including in-house counsel) or incur other expenses for the collection of amounts due under this Host City Agreement or the enforcement of performance or observance of any obligation or agreement on the part of the other party contained in this Host City Agreement, on demand therefore, the non-prevailing Party shall pay or reimburse the prevailing Party for the reasonable fees of such attorneys and such other expenses so incurred.

(c)      *Notices.* Except as otherwise provided herein, all notices, consents or other communications required hereunder shall be made via electronic means or in writing and, if in writing, shall be sufficiently given if addressed and mailed by first-class, certified or registered mail, postage prepaid and return receipt requested, as follows:

To Renton:

City of Renton  
Attention: Finance and Information Services Department Administrator  
1055 South Grady Way  
Renton, Washington 98057  
Phone: (425) 430-6858

To Auburn:

City of Auburn  
Attention: Finance Director  
25 West Main St.  
Auburn, Washington 98001  
Phone: (253) 931-3000

To Federal Way:

Federal Way  
Attention: City Manager  
33325 8<sup>th</sup> Avenue South  
Federal Way, Washington 98063  
Phone: (253) 835-7000

To Des Moines:

Des Moines  
Attention: City Manager  
21630 11<sup>th</sup> Avenue South  
Des Moines, Washington 98198  
Phone: (206) 878-4595

To SCORE:

South Correctional Entity  
Attention: Facility Director  
1055 South Grady Way  
Renton, Washington 98057  
Phone: (425) 430-7565

Any Party hereto may, by notice given as required herein, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent. Notices shall be deemed served upon deposit of such notices in the United States mail in the manner provided above.

(d) *Binding Effect.* This Host City Agreement shall inure to the benefit of and shall be binding upon the Parties hereto and their successors. This Host City Agreement may not be assigned.

(e) *Severability.* In the event any provision of this Host City Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

(f) *Amendments.* This Host City Agreement may not be effectively amended, changed, modified or altered, except by an instrument in writing duly executed by an authorized officer of each Party hereto and pursuant to an appropriate motion, resolution or ordinance of each Party hereto.

(g) *Waiver of Breach.* No waiver of any breach of any covenant or agreement contained herein shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the nondefaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults that were in existence at the time such payment or payments or performance were accepted by it.

(h) *No Rights Created in Third Parties.* The terms of this Host City Agreement are not intended to establish nor to create any rights in any persons or entities other than the Parties hereto and the respective successors and assigns of each.

(i) *Time of Essence.* Time and all terms and conditions shall be of the essence of this Host City Agreement.

(j) *Filing of Host City Agreement.* Upon execution, this Host City Agreement shall be filed as required in RCW 39.34.040.

(k) *Counterparts.* This Host City Agreement may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, Renton, Auburn, Federal Way, Des Moines and SCORE have caused this Host City Agreement to be executed in their respective names by their duly authorized officers, and have caused this Host City Agreement to be dated and effective as of the date set forth on the first page hereof.

**CITY OF RENTON, WASHINGTON**

By: \_\_\_\_\_  
Denis Law, Mayor

**CITY OF AUBURN, WASHINGTON**

By: \_\_\_\_\_  
Pete Lewis, Mayor

*B*

**CITY OF FEDERAL WAY,  
WASHINGTON**

By: \_\_\_\_\_  
Brian Wilson, City Manager

**CITY OF DES MOINES, WASHINGTON**

By: \_\_\_\_\_  
Bob Sheckler, Mayor

**SOUTH CORRECTIONAL ENTITY**

By: \_\_\_\_\_  
Jack Dovey, Presiding Officer  
Mayor, City of Federal Way, Washington